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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,250	01/15/2004	Douglas Melton Carper	121497 (07783-0172)	6395
31450 7590 04/24/2008 MCNEES WALLACE & NURICK LLC 100 PINE STREET P.O. BOX 1166 HARRISBURG, PA 17108-1166				
EXAMINER				
MAYES, MELVIN C				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
04/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/758,250

Applicant(s)

CARPER ET AL.

Examiner

Melvin C. Mayes

Art Unit

1791

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 09 April 2008. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Melvin C. Mayes/
Primary Examiner, Art Unit 1791

Continuation of 11, does NOT place the application in condition for allowance because: of the reasons as set forth in the Final Rejection. While Steibel et al. '550 may not disclose that the composite turbine blade has a dovetail section, such is known in the art of making composite turbine blades, as suggested by JP 6-137103. JP '103 teaches that a fiber reinforced composite turbine blade is made with a dovetail section using reinforcing fiber which extends from the dovetail section to the blade part. The reference is also particularly relevant because it teaches that turbine blades made by such process can be of various fiber strengthening composites such as fiber reinforced plastics (i.e., resin matrix composites), fiber reinforced metal (i.e., metal matrix composites), fiber strengthening ceramic (i.e., ceramic matrix composites) and fiber strengthening carbon (i.e., carbon matrix composites) [0009]. Thus making a turbine blade with a dovetail section is known in the art for all types of composite turbine blades. Baldwin is pertinent because the reference suggests that it would be obvious to one of ordinary skill in the art to have provided an insert preform not only in the blade section but also in the dovetail section in order to enhance producibility and reduce the number of prepreg layers, especially in the thick dovetail section. Inserts suggested by Baldwin are made to be of the same composite material as the composite material layered over the inserts to form the composite blade, which would have suggested to one of ordinary skill in the art to have used a composite insert preform as disclosed by Steibel et al. also in the dovetail section.

Applicant argues that Baldwin is not analogous art because the reference is directed to cloth/resin composite blades as compared to ceramic matrix composite made by silicon melt infiltration of Steibel et al. However, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Baldwin is not only in the field of applicant's endeavor, that being the field of making composite turbine blades, but also reasonably pertinent to the particular problem with which the applicant was concerned, that being how to provide an insert in the dovetail section of the composite turbine blade. Applicant appears to contend that the resin matrix composites and ceramic matrix composites made by melt infiltration are so different in processing and are such different fields that teachings such as from the Baldwin reference, which is particularly directed to resin matrix composites are not relevant to composite processing such as of Steibel, which is particularly directed to ceramic matrix composites. However, not only are both references related to forming composite turbine blades but also forming composite blades having inserts. The particular composite fields of resin matrix composites and ceramic matrix composites are not as disparate as Applicant contends, and one of ordinary skill in the art of composites is familiar with both resin matrix composite processing and ceramic matrix composite processing.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, providing an insert preform not only in the blade section but also in the dovetail section in order to enhance producibility and reduce the number of prepreg layers, such insert of the same composite material as the composite material layered over the inserts to form the composite blade, is knowledge which was within the level of ordinary skill at the time the claimed invention was made, as suggested by Baldwin.